

# **EXHIBIT 20**

*PACIFIC ALLIANCE ASIA OPPORTUNITY FUND L.P. vs.  
KWOK HO WAN*

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*MICHAEL HORVITZ  
April 9, 2019*

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*Min-U-Script® with Word Index*

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF NEW YORK

3 -----X  
PACIFIC ALLIANCE ASIA OPPORTUNITY FUND L.P.,

4 Plaintiff,

5 KWOK HO WAN, a/k/a KWOK HO, a/k/a GWO WEN GUI,  
6 a/k/a GUO WENGUI, a/k/a GUO WEN-GUI, a/k/a  
WAN GUE HAOYUN, a/k/a MILES KWOK, a/k/a  
7 HAOYUN GUO,

8 Defendant.

9 INDEX NO.: 652077/2017  
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10  
11 1100 Superior Avenue East  
12 Cleveland, Ohio

13 April 9, 2019  
14 8:38 a.m.

15 Videotaped examination of MICHAEL HORVITZ,  
16 taken before me, the undersigned, Sarah R. Drown,  
17 a Registered Professional Reporter and Notary  
18 Public within and for the State of Ohio.  
19  
20  
21  
22

23 ELLEN GRAUER COURT REPORTING CO., LLC  
24 126 East 56th Street, Fifth Floor  
New York, New York 10022  
25 212-750-6434  
REF: 267201

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22  
23 ALSO PRESENT:

24 Ivan Bercian, Videographer

25

1 MICHAEL HORVITZ

2 Wong that purported to say that Mr. Kwok  
3 was the owner and controller of the  
4 company.

5 Q. What is your view sitting here  
6 today after reviewing his testimony as to  
7 the veracity of Mr. Kwok's certification  
8 that he owned and controlled Beijing  
9 Zenith?

10 A. Well, I believe that this  
11 testimony, the deposition testimony, and  
12 the representations that we received in  
13 2015 are completely inconsistent with  
14 each other, but I can't tell which one is  
15 true. So I don't know whether -- whether  
16 he's lying in the deposition or he was  
17 misrepresenting the situation in 2015,  
18 but I don't see how both situations could  
19 be true.

20 Q. Had you known that Mr. Kwok  
21 didn't actually own Beijing Zenith even  
22 though he certified he did, how, if at  
23 all, would that have affected your  
24 recommendation to the board?

25 MS. SEARLES: Object to

1 MICHAEL HORVITZ

2 form.

3 A. Well, I have a very low  
4 tolerance for people who have an  
5 inability to tell the truth, and if I had  
6 known that the representations being made  
7 were not true, my guess is that I would  
8 have not recommended approval of the  
9 purchase of the apartment.

10 Q. Do you recall your testimony  
11 earlier today that based on Mr. Kwok's  
12 certification and representations that  
13 you believe Beijing Zenith was an  
14 operational company?

15 A. Well, I didn't form a judgment  
16 about what business it was in, whether it  
17 had operations, whether it was a holding  
18 company, what it was. It was my belief  
19 that it was a company owned and  
20 controlled by Mr. Kwok.

21 I found the financials  
22 difficult to understand, so I couldn't  
23 make a judgment about that. But I didn't  
24 form an opinion of, you know, what  
25 business it was in.

1 MICHAEL HORVITZ

2 Q. If I can direct your attention  
3 to page 79 of the testimony. I'm going  
4 to start reading from line 23. This  
5 testimony goes on to the next page.

6 Question, "Mr. Kwok, did you  
7 know at the time this Beijing Zenith  
8 Holdings balance sheet was submitted to  
9 The Sherry-Netherland that Beijing Zenith  
10 Holdings' assets had been frozen by the  
11 Chinese government?"

12 "Object to the form of the  
13 question."

14 Mr. Kwok refuses to answer and  
15 then he's instructed that he can answer  
16 this question. He answers on line 9, "In  
17 that case, I know. Yes."

18 Do you see that?

19 A. Yes.

20 Q. What, if any, reaction sitting  
21 here today do you have to this testimony,  
22 Mr. Horvitz?

23 A. Well, I -- I felt that the  
24 Beijing Zenith financial statements  
25 were -- there was something wrong with



1 MICHAEL HORVITZ

2 them when I first reviewed them. So I  
3 had a skepticism about them, which is why  
4 I didn't recommend approval based on the  
5 Beijing Zenith Holdings' financial  
6 statements.

7 So in this sense I guess I'm  
8 not surprised that -- that those  
9 statements were even more inaccurate than  
10 I thought they were, but they certainly  
11 confirm the idea that the statements were  
12 not accurate.

13 Q. Do you recall your testimony,  
14 based on Mr. Kwok and his lawyers'  
15 representations, that you believed he  
16 owned 50 percent of Bravo Luck?

17 A. Of Bravo Luck? Yes.

18 Q. If I can direct your attention  
19 to page 82 of the testimony of Exhibit 8,  
20 please.

21 I'm going to start at line 11.

22 "Thank you. I have handed  
23 you -- the court reporter has handed you  
24 Exhibit 5, which is a statement entitled  
25 Debit Advice from UBS in Hong Kong for

1 MICHAEL HORVITZ

2 Bravo Luck Limited, and it's  
3 Bates-stamped Kwok 510, and it was  
4 produced by your counsel to us in this  
5 case, Mr. Kwok."

6 Do you see that, Mr. Horvitz?

7 A. Yes.

8 Q. I'm going to read from line  
9 17.

10 Question, "Bravo Luck Limited  
11 is a company owned by Zhang Wei?"

12 Answer, "Yes."

13 Question, "You have no  
14 ownership interest in Bravo Luck  
15 Limited?"

16 Answer, "I do not remember  
17 having any."

18 Do you see that testimony?

19 A. I do see it, yes.

20 Q. What is your reaction, if any,  
21 sitting here today, Mr. Horvitz, to  
22 Mr. Kwok's testimony regarding Bravo  
23 Luck?

24 A. Well, my reaction is again  
25 it's completely inconsistent with the

1                   MICHAEL HORVITZ  
2       representations that were made at the  
3       time, in 2015, at the time of the  
4       application. And either those  
5       representations were inaccurate at the  
6       time or this testimony is inaccurate when  
7       it was given. I have no view as to which  
8       it is, but they're completely  
9       inconsistent.

10           Q.       How does reading Mr. Kwok's  
11       testimony from 2018 make you feel  
12       regarding the representations he made in  
13       2015?

14           A.       It doesn't really -- because I  
15       don't know whether the representations in  
16       2015 were true or not, it doesn't -- it  
17       really in a funny way doesn't cast doubt  
18       on the original representations, but it  
19       tells me that one of two things happened.

20                   Either he was misrepresenting  
21       at the time or he's lying in this  
22       deposition. And it's theoretically  
23       possible that the representation was true  
24       and now he's lying and it's also possible  
25       that the reverse is true. I don't have a

1 MICHAEL HORVITZ

2 view on that.

3 If I -- if I had known or if  
4 I -- if this testimony indicated to me  
5 that the representations in 2015 were  
6 inaccurate, I would consider, too, that  
7 we were defrauded.

8 Q. I don't have anything further  
9 at this time. I reserve my right to ask  
10 additional questions after Ms. Searles'  
11 examination.

12 I don't know if you want to  
13 take a break before Ms. Searles starts or  
14 not.

15 MS. SEARLES: Yeah, it  
16 might make more sense just to take  
17 a quick break so I can --

18 MR. MOSS: Sure.

19 MS. SEARLES: -- just make  
20 sure to do it as quickly as  
21 possible for you.

22 THE WITNESS: No problem.

23 THE VIDEOGRAPHER: Off the  
24 record. The time is 9:56.

25 - - - - -

1 MICHAEL HORVITZ

2 (Recess taken.)

3 - - - - -

4 THE VIDEOGRAPHER: We're back  
5 on the record. The time is now  
6 10:07.

7 EXAMINATION OF MICHAEL HORVITZ

8 BY MS. SEARLES:

9 Q. Good morning, Mr. Horvitz.

10 As I mentioned earlier, I'm  
11 Jillian Searles, counsel for Mr. Kwok. I  
12 just have a few questions for you.

13 What, if anything, did you do  
14 today to prepare for your deposition?

15 A. Today?

16 Q. Or what did you do to prepare  
17 for your deposition today, if anything,  
18 at any point before this day?

19 A. Well, I reviewed the minutes  
20 of the two meetings. I reviewed the  
21 application package. I talked to my  
22 counsel. That's pretty much it.

23 Q. Aside from your counsel, did  
24 you speak to anyone at the board?

25 A. No.

1 MICHAEL HORVITZ

2 Q. Did you speak to Mr. Ullman?

3 A. No.

4 Q. You mentioned you reviewed a  
5 couple of documents, the board minutes?

6 A. The board minutes, the  
7 application package. I also reviewed the  
8 correspondence from Ira Gilbert and Jerry  
9 Shulman regarding the financial  
10 information.

11 Q. Did you review any of the  
12 legal pleadings in this particular  
13 matter?

14 A. I received them, but I didn't  
15 read them.

16 Q. From whom did you receive the  
17 legal pleadings?

18 A. My counsel.

19 Q. I believe you mentioned  
20 earlier you own an apartment at The  
21 Sherry-Netherland?

22 A. Yes.

23 Q. You've owned that apartment  
24 since 2004?

25 A. No. I went on the board in

1 MICHAEL HORVITZ

2 2004. I've owned -- I've owned the  
3 apartment since 1988. And then I  
4 acquired -- there were a hotel room next  
5 to it and I acquired that some time  
6 later, I can't remember the year, and  
7 combined it with my apartment. But I've  
8 been a shareholder since 1988.

9 Q. Okay. Do you own that  
10 apartment in your own name?

11 A. I own it in the name of a  
12 revocable trust that is my trust.

13 Q. Is it common for individuals  
14 living at The Sherry-Netherland to own  
15 their apartments through other entities?

16 A. I'd say it's --

17 MR. MOSS: Objection to  
18 the form.

19 A. I don't know how prevalent it  
20 is, but it's not -- it's not uncommon.

21 Q. Earlier today you testified  
22 that you were given various financial  
23 information with respect to your review  
24 of Mr. Kwok's application.

25 Other than reviewing, reading

1 MICHAEL HORVITZ

2 the actual material that was provided to  
3 you, what, if anything, did you do to  
4 verify that information?

5 MR. MOSS: Object to  
6 the form.

7 A. Well, I -- with respect to the  
8 Beijing Zenith financial information, I  
9 did nothing to verify it because I found  
10 it incomprehensible. So I discounted it.

11 With respect to the Bravo Luck  
12 financial statement, I looked at the  
13 certification to confirm that Mr. Kwok  
14 was the -- had access to the funds.

15 But I don't think I did  
16 anything further. I don't remember doing  
17 anything further, as far as verification  
18 is concerned.

19 Q. You testified earlier that  
20 during the application process you did  
21 have additional questions, correct?

22 MR. MOSS: Object to  
23 the form.

24 Q. Of the financial information  
25 that you were given, correct?



C E R T I F I C A T E

I, Sarah R. Drown, a Registered Professional Reporter and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that MICHAEL HORVITZ, was first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by him was by me reduced to stenotypy in the presence of said witness, afterwards transcribed on a computer/printer, and that the foregoing is a true and correct transcript of the testimony so given by him as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified. I do further certify that I am not a relative, counsel or attorney of either party, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 10th day of April, 2019.



Sarah R. Drown, RPR, Notary Public